



PATENT
P56410

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS & INTERFERENCES**

In re Application of:

Appeal No. _____

SUNG-HO KANG

Serial No.: 09/912,575

Examiner: HASSAN A. PHILLIPS

Filed: 26 July 2001

Art Unit: 2151

For: NETWORK SYSTEM AND CONTROL METHOD FOR RECOGNIZING
VARIABLE IP ADDRESS AS FIXED IP ADDRESS (as amended)

REPLY BRIEF

Paper No. 27

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. §41.41(a), Appellant hereby requests entry of this Reply Brief in response to the Examiner's Answer mailed on 9 November 2007.

This Reply Brief is filed with a written Request for Oral Hearing before the Board of Patent Appeals and Interferences, and the statutory fee incurred by that request.

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I.D.: REB/JGS/kf/ny

REMARKS

The Examiner's Answer mailed on 9 November 2007 has been carefully considered.

In the Examiner's Answer, the Examiner maintained his rejection of claims 1, 4, 5, 7, 10 thru 13, 16, 19, 21 and 22 under 35 U.S.C. §103 for alleged unpatentability over Anderson *et al.*, U.S. Patent No. 6,567,122 in view of "Applicant's Admitted Prior Art (AAPA)".

In section 10 of the Examiner's Answer, which is a response to arguments set forth in Appellant's previously filed Appeal Brief, the Examiner sets forth various new counter-arguments. Thus, it is the purpose of this Reply Brief to respond to these new counter-arguments.

At page 9, line 6 of the Examiner's Answer, the Examiner correctly points out that, in the Appeal Brief, Appellant stated that the "What is DCHP?" document has a date which falls well after Appellant's priority date. In response, the "Examiner submits that the date of the reference is irrelevant in this case since, for one, the date indicated in the document merely identifies the last time the web page has been modified" (quoting from page 9, lines 7-10 of the Examiner's Answer). Thus, in accordance with the Examiner's argument, all that we know is that the information upon which the Examiner is relying, as contained in the "What is DCHP?" document, first appeared on the web page on a date which falls well after Appellant's priority date. That is, unless the Examiner can show that the information contained in that document and relied upon by the Examiner was present on the web page prior to Appellant's priority date, the document relied upon by the Examiner must be considered an invalid reference, and should not be relied upon in supporting the Examiner's position with respect to this application.

At page 10, line 4 of the Answer, the Examiner states that, "[i]n response to appellant's remarks above, examiner first submits there is no mention of solving the 'unknown address'

problem in appellant's claimed invention" (quoting from page 10, lines 4-5 of the Answer). In response, Appellant must take note of the fact that this argument by the Examiner has no relevance whatsoever to the Examiner's position to the Appellant's previous remarks, or to allowability of the claims at issue.

In any event, at page 10, line 8 of the Answer, the Examiner states that, "[a]s previously indicated above, Anderson suggests the ISP (710) is utilizing a DHCP server to assign addresses to a network unit (100) each time the network unit establishes an Internet connection" (quoting from page 10, lines 8-10 of the Answer). Again, the use of the word "suggests" in the above quotation is simply not supported by reference to Anderson *et al.* '122 since, at no place in the citations set forth by the Examiner (column 9, lines 4-9; column 12, line 57-column 13, line 12; and Figure 7) is there any mention whatsoever of the use of a DHCP server. For the Examiner to suggest that one of ordinary skill in the art, upon reading the relatively general functional language set forth in Anderson *et al.* '122, would know that the patentees of Anderson *et al.* '122 were referring to a DHCP server is, it is respectfully submitted, an unreasonable presumption on the part of the Examiner. As previously stated in the Appeal Brief, the only reason that the Examiner is able to make such a connection between the relatively general functional language of Anderson *et al.* '122 and the use of a DHCP server is that the Examiner has had the benefit of reviewing the disclosure of the present application. In contrast, one of ordinary skill in the art, as of the date of the invention, would not have had access to the disclosure of the present application, and thus would not be able to make the connection between the general functional language of Anderson *et al.* '122 and the use of a DHCP server, as the Examiner has done.

At page 12, line 5 of the Answer, the Examiner "maintains it is implied if not inherent in the teachings of Anderson that Anderson is using a communication unit in the agent server that is similar to appellant's claimed communication unit" (quoting from page 12, lines 5-8 of

the Answer). Again, the Examiner does not provide any support for this position in that the Examiner does not provide any citation to a portion of Anderson *et al.* '122 wherein a communications unit in a agent server is disclosed or suggested. Moreover, as argued above relative to other positions taken by the Examiner, it is submitted that the Examiner has been able to develop such a position due to the fact that the Examiner, unlike one of ordinary skill in the art as of the date of the invention, has had the benefit of reviewing the disclosure of the present application, and has received from the disclosure of the present application information which has caused the Examiner to see, in Anderson *et al.* '122, a suggestion of the use of a communications unit in an agent server. Of course, one of ordinary skill in the art as of the date of the invention would not have had access to the disclosure of the present application, and thus would not be able to receive, from Anderson *et al.* '122, any suggestion similar to that which the Examiner has allegedly received from Anderson *et al.* '122.

At page 13, line 2 of the Answer, the Examiner states that "it is implied, if not inherent, in the teachings of Anderson that a control unit is connected to a communication unit and database or storing means in a manner similar to appellant's claimed invention" (quoting from page 13, lines 2-5 of the Answer). The response to this assertion by the Examiner is similar to the responses to the two previous assertions discussed above. That is to say, the Examiner has not cited any portion of Anderson *et al.* '122 which discloses or suggests an element corresponding to the control unit claimed in the present application. Moreover, there has been no citation to Anderson *et al.* '122 which would suggest to one of ordinary skill in the art, as of the date of the invention, that a control unit is connected to a communication unit and database or storing means in a manner similar to the claimed invention. As stated above, this is based upon the fact that one of ordinary skill in the art, as of the date of the invention, would not have had the benefit of reviewing the disclosure of the present application, as the Examiner has had, and thus one of ordinary skill in the art would not be able to derive, from Anderson *et al.* '122, an arrangement wherein a control unit is connected to a communications unit and

database or storing means in a manner similar to the claimed invention.

To summarize, it is respectfully submitted that, as a result of reviewing the disclosure of the present application, the Examiner has taken the advantage or the benefit of information provided by the disclosure, and is "reading into" the disclosure of Anderson *et al.* '122 elements and functions which are simply not disclosed or suggested therein.

A Request for Oral Hearing and an Appellants' check in the amount of \$1,030.00 drawn to the order of Commissioner accompany this Reply Brief. Should the Request and/or check become lost, the Commissioner is kindly requested to treat this paragraph as such a request, and is authorized to charge Deposit Account No. 02-4943 of Appellant's undersigned attorney in the amount of such fee.

Respectfully submitted,



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